



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0419; FRL-9986-48-Region 4]

Air Plan Approval; NC; Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of State Implementation Plan (SIP) revisions provided by the State of North Carolina through the North Carolina Division of Air Quality (NCDAQ) in letters dated June 5, 2017, and August 22, 2017. The submissions revise several regulations concerning nitrogen oxides, emission control standards, monitoring, and reporting requirements. EPA is proposing to approve these provisions of the SIP revisions because these changes are consistent with the Clean Air Act (CAA or Act) and federal regulations.

DATES: Comments must be received on or before [insert date 21 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2018-0419 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can also be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

NCDAQ submitted SIP revisions through letters dated June 5, 2017 and August 22, 2017 to EPA for review and approval into the North Carolina SIP.¹ North Carolina's SIP revisions include multiple changes to its air quality rules, under subchapter 15A NCAC 2D, specifically at Section .1404, "Recordkeeping: Reporting: Monitoring," Section .0542, "Control of Particulate Emissions from Cotton Ginning Operations," Section .0606, "Sources Covered by Appendix P of 40 CFR Part 51," and Section .0608, "Other Large Coal or Residue Oil Burners." EPA is not taking action on Section .0535, "Excess Emissions Reporting and Malfunctions" which is included in the changes in the August 22, 2017 SIP revision. EPA will address revisions to

¹ The SIP revisions were received by EPA on June 5, 2017 and September 6, 2017, respectively.

Section .0535 in a separate action.

II. Analysis of the State's submittals

A. June 5, 2017 SIP submittal.

The June 5, 2017 submission revises North Carolina's nitrogen oxides (NO_x) Rule Section .1404, "Recordkeeping: Reporting: Monitoring" through several iterations.² The State previously submitted the changes as four separate submissions.³ North Carolina took these rule changes to hearings on May 21, 2001, June 5, 2001, June 22, 2005, and November 11, 2007. NCDAQ subsequently withdrew and resubmitted these changes in a comprehensive submission. The revision that became state-effective on July 15, 2002, made minor and clarifying changes to subsections (a) "General requirements," (b) "Submittal of information to show compliance status," (c) "Excess emissions reporting," (d) "Continuous emissions monitors," (f) "Missing data," (g) "Interim report for large sources," (h) "Recordkeeping and reporting requirements for large sources," and (i) "Averaging time for continuous emissions monitors." Clarifying edits consisted of clarifying that records needed to be maintained for five years and changing "a" to "the" and "Rule" to "Rules." Changes were also made to remove an exception for seasonal

² NO_x Rule section .1404 was originally submitted to EPA as part of the State's NO_x Budget and Allowance Trading Program in response to EPA's regulation entitled "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the NO_x SIP Call.

³ The June 5, 2017, cover letter requested withdrawal for submissions or portions of submissions dated August 14, 2002, October 14, 2004, March 24, 2006, and November 19, 2008, with state effective dates July 15, 2002, May 1, 2004, November 1, 2005, and January 1, 2009, respectively. Through a separate rulemaking on May 9, 2013, EPA took final action on portions of the October 14, 2004 submission approving some revisions, including those for section .1404, and conditionally approving other revisions. *See* 78 FR 27065. Additionally, the State previously submitted a revision to Section .1404 on December 14, 2004, and EPA finalized the rulemaking approving that revision on August 22, 2008 (73 FR 49613). Finally, the State previously submitted a revision to Section .1404 on December 27, 2002, and EPA finalized the rulemaking approving that revision on December 27, 2002. *See* 67 FR 78987.

excess emission reporting because the referenced rules were previously repealed by the State and approved by EPA. The submission makes a change that prescribes a requirement for continuous emission monitoring for sources covered under Section .1418, “New Electric Generating Units, Large Boilers, and Large I/C Engines.” Lastly, the SIP revision makes minor typographical changes throughout. EPA is proposing to approve these revisions because the minor typographical and clarifying changes do not relax or alter the meaning of the rule and the other revision pertaining to a requirement for continuous emissions monitoring for sources covered under Section .1418 is SIP-strengthening and is consistent with the requirements of the CAA and federal regulations.⁴

The revision that became state-effective on November 1, 2005, removed the interim reporting requirements for large sources and retained the annual requirement where sources must report NO_x emissions no later than October 30. The revision that became state-effective on January 1, 2009, also made minor changes that consisted of changing “a” to “the,” renumbering the subparagraphs and removing references to repealed rules, including sections .1416, “Emission Allocations for Utility Companies,” .1417, “Emission Allocations for Large Combustion Sources,” and .1419, “Nitrogen Oxide Budget Trading Program.”⁵ EPA is proposing to approve these changes because the minor changes do not relax or alter the meaning of the rule and the other revision pertaining to the date for the end of season reporting requirement is consistent with the requirements of the CAA and federal regulations.

B. August 22, 2017, SIP submittal.

The August 22, 2017 submission revises Sections .0542, “Control of Particulate

⁴ 40 CFR 51.121 – 5.122 (NO_x SIP Call regulations) and 40 CFR part 75 (Continuous Emissions Monitoring).

⁵ EPA approved the repeal of these provisions on May 9, 2013. *See* 78 FR 27065.

Emissions from Cotton Ginning Operations,” .0606, “Sources Covered by Appendix P of 40 CFR Part 51,” and .0608, “Other Large Coal or Residual Oil Burners.” The SIP revision makes minor and clarifying edits throughout the three rules. The changes in Section .0542 remove obsolete past due dates for Emission Control Requirements and provide clarification edits under paragraph (c) - *Applicability*, paragraph (d) - *Emission Control Requirements* and paragraph (e) - *Raincaps*. Clarifying edits consisted of renumbering and removing references to obsolete control dates and were also made under paragraph (g) - *Fugitive Emissions* and paragraph (l) - *Reporting*. The changes in Sections .0606 and .0608 are minor and revise references to another rule in the same subchapter for fuel analysis for sulfur dioxide emitting sources without continuous emissions monitoring. EPA is proposing to approve these changes because the minor and clarifying changes do not relax or alter the meaning of the rule.

III. Incorporation by Reference

In this rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference under subchapter 2D, Section .1404, “Recordkeeping: Reporting: Monitoring,” effective January 1, 2009,⁶ which clarifies the rule by updating quality assurance, recordkeeping and reporting requirements and provisions for heat input calculations and removes references to repealed rules. EPA is proposing to incorporate by reference under subchapter 2D Section .0542, “Control of Particulate Emissions from Cotton Ginning Operations,” Section .0606, “Sources Covered by Appendix P of 40 CFR Part 51,” and Section

⁶ January 1, 2009 is the most recent state effective date of subchapter 2D, Section .1404, “Recordkeeping: Reporting: Monitoring,” and it reflects the exact version of the text of .1404 that EPA is proposing to approve into the SIP.

.0608, “Other Large Coal or Residue Oil Burners,” effective June 1, 2008, which makes minor and clarifying changes, updates rule references, and removes obsolete controls and dates. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the aforementioned changes to the North Carolina SIP, submitted on June 5, 2017, and August 22, 2017 because they are consistent with the CAA and federal regulations.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175

(65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 6, 2018.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.